

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

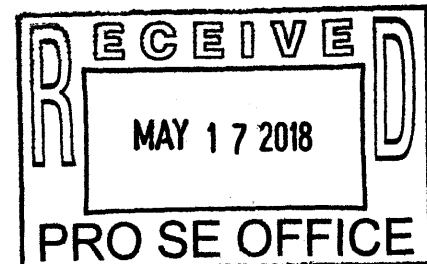
v.

PATRICK K. MCDONNELL,
and CABBAGETECH, CORP. d/b/a COIN
DROP MARKETS,

Defendants.

Case No. 18-CV-00361 (JBW) (RLM)

DECLARATION IN SUPPORT
OF MOTION TO DISMISS



DECLARATION

In opposition of Plaintiff Complaint alleging that Defendant violated sections of THE COMMODITY EXCHANGE ACT AND COMMISSION REGULATIONS **"specifically"; Count 1--Fraud by Deceptive Device or Contrivance; Violations of § 6(c)(1) of the Act and Regulation 180.1 (a).** *Id.* "§ 6(c)(1) unambiguously applies broadly to the use or attempted use of any manipulative or deceptive device "in connection with any swap, or a contract of sale of any commodity in interstate commerce." [quoting 2018 WL 2110935 at *7 (3).] and *Id.* "§ 6(c)(1) only prohibits fraud-based market manipulation." [quoting 2018 WL 2110935 at *7 (4).] **'Exhibit 1'; Attached** (United States District Court, C.D. California. *COMMODITY FUTURES TRADING COMMISSION v. MONEX CREDIT COMPANY, et al.* Case No. SACV 17-01868 JVS (DFMx) 5/1/18 Westlaw Citation ["2018 WL 2110935"] 11 pages.)

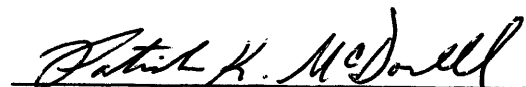
Furthermore, Id. § 6(c)(1) **“only confers anti-fraud jurisdiction where a particular commodity transaction manipulates or potentially manipulates the derivatives market.”** [quoting 2018 WL 2110935 at *7 (4)(a).] Defendant once again, moves the Court respectively to dismiss Plaintiff Complaint and alleged Count(s) **‘with prejudice’** again, citing Plaintiff lack of; **Subject-matter jurisdiction** (pursuant to Rule 12 (b)(1), Fed. R. Civ. P.) and/or **Personal Jurisdiction** (pursuant to Rule 12 (b)(2), Fed. R. Civ. P.) and specifically for Plaintiff **Failure to state a claim upon relief can be granted** (pursuant to Rule 12 (b)(6), Fed. R. Civ. P.).

‘Complete’ basis for Defendant Motion are set forth in the accompanying **MEMORANDUM OF LAW.**

This is not an argument of whether bitcoin, litecoin, and/or all virtual currencies “are” or “are not” commodities. Nor, an argument of Plaintiff alleged Defendant violation(s). The argument here is **“Plaintiff is not afforded regulatory authority and/or scope of enforcement jurisdiction over Defendants’ alleged transaction(s)”** rendering Plaintiff Complaint dismissive. Plaintiff use of § 6(c)(1) is ‘unambiguous’ and ‘broad’ in it’s misinterpretation and misuse of language. Thus, again meriting full dismissal of Plaintiff claim(s).

CC: CFTC

May 14, 2018



Defendant/Pro Se

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